

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CSX TRANSPORTATION, INC.,
individually and on behalf
of Norfolk & Portsmouth Belt
Line Railroad Company,

Plaintiff,
v.

Civil No. 2:18cv530

NORFOLK SOUTHERN RAILWAY COMPANY,
NORFOLK & PORTSMOUTH BELT LINE RAILWAY
COMPANY,

Defendants.

ORDER

This matter is before the Court on a "Motion to Dismiss All Remaining Claims for Relief," filed by Defendant Norfolk & Portsmouth Belt Line Railway Company ("NPBL") on January 9, 2023. ECF No. 572. Defendant Norfolk Southern Railway Company ("NSR," and together with NPBL, "Defendants"), joins in the motion. ECF No. 574. A bench trial on injunctive relief is currently scheduled to begin on January 19, 2023.

Defendants' filings focus primarily on the validity of Plaintiff CSX Transportation, Inc.'s ("CSX") federal antitrust injunctive relief claims, separately arguing that CSX's state law injunctive relief claims were resolved in Defendants' favor in the Court's prior ruling on summary judgment. ECF Nos. 573-74. CSX's opposition brief similarly focuses on the federal injunctive

relief claims, but asserts that the case should proceed to trial on both federal and state injunction claims. ECF No. 593.

Having considered the parties' well-argued briefs, which were presented on an expedited schedule, and CSX's acknowledgement that it would be a waste of resources to conduct a bench trial on the federal claims if relief is unavailable **as a matter of law**, the Court finds that it is appropriate to hold oral argument at **11:00 a.m. on Wednesday, January 18, 2023**. The parties should be prepared to address: 1) the legal availability of injunctive relief under federal **and** state law, and as to the latter, should be prepared to address whether the Court has already denied the state law injunctive relief claims or simply commented on the strength of the claims as there was no applicable motion on state injunction claims before the court, 2) whether Defendants have now moved for dismissal of the state law injunctive relief claims, 3) whether Defendants can do so now, during trial, or at the conclusion of trial if they have not yet moved for dismissal, 4) and whether any state law injunction claims can survive based on the jurisdiction/preemption arguments advanced by Defendants in their proposed findings of fact and conclusions of law, and in light of Edwards v. CSX Transportation, Inc., 983 F. 3d 112, 116 (4th Cir. 2020), which was issued after this Court's earlier decision on NPBL's motion to dismiss. See ECF No. 66, at 19-25, and ECF No. 587, at 42-44.

The Clerk is **DIRECTED** to send a copy of this Order to all counsel of record. **IT IS SO ORDERED.**

/s/

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
January 16, 2023

